

REMARKS

Applicant acknowledges receipt of the Final Office Action dated May 3, 2004, in which the Examiner continued the rejection of claims 1-3, 6-13, and 16-20 as anticipated by U.S. Patent 4,634,446 to *Kristinsson* and rejected claims 1 and 11 as anticipated by U.S. Patent 3,953,900 to Thompson.. Applicant has amended the claims and respectfully traverses these rejections for the reasons set out below.

In repeating the previous rejection, the Examiner states that he "has only given patentable weight to the mount but has not given patentable weight to the functional axis of the joint axis" Applicant respectfully disagrees and submits that the claim language relating to the mount as originally filed contained a structural limitation. Specifically, the claim language read "a mount on said outer surface and defining a joint axis, said joint axis substantially coinciding with the natural axis of rotation of the patient's natural leg when rotated in a sagittal plane."

Applicant submits that, as written, the claim requires that the mount define a joint axis that substantially coincides with the natural joint axis of the patient.¹ As there is only one such natural joint axis, the claim as written allows only one position for the mount, namely on the side of the socket, and thus the language as filed recites a very specific structural limitation. If the mount, which defines a single axis of rotation, is mounted anywhere else, then its axis of rotation will not coincide with the recited natural axis. Hence, the claim recitation is a structural limitation. None of the cited references teaches or suggests a device meeting this limitation and the rest of the limitations of the claims.

The Examiner's basis for rejecting the present claims as anticipated by *Thompson* must fail for the same reason.

Nonetheless, Applicant has amended claims 1 and 11 to more specifically recite the limitation on the position of the mount. Applicant respectfully submits that the limitation as re-written is clearly a structural limitation that distinguishes the present claims over the art of the record. If the Examiner still disagrees, he is respectfully requested to telephone the undersigned so that Applicant may gain a better understanding of the issue.

¹ More specifically, the joint axis coincides with the natural joint axis of a patient when he rotates his leg in a sagittal plane, i.e. as in the course of walking.

Conclusion

Applicants respectfully submit that the present amendments place the claims in condition for allowance and therefore respectfully request that the Examiner enter the amendments and reconsider and withdraw the rejections. If the Examiner has any questions regarding this matter, he is encouraged to telephone the undersigned at (713) 238-8043.

Respectfully submitted,



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